

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ERIC L. SMITH,**

**Petitioner,**

**v.**

**CASE NO. 2:18-cv-739**

**Chief Judge Edmund A. Sargus, Jr.**

**Magistrate Judge Chelsey M. Vascura**

**NEIL TURNER, WARDEN,  
NORTH CENTRAL CORRECTIONAL  
COMPLEX,**

**Respondent.**

**OPINION AND ORDER**

On January 29, 2019, the Magistrate Judge issued an Order and Report and Recommendation recommending that Petitioner's motion for a stay (ECF No.s 6, 7) be denied and that the Petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 be dismissed without prejudice as unexhausted, unless Petitioner notified the Court within fifteen (15) days of his withdrawal of his unexhausted habeas corpus claim nine. (ECF No. 13.) Although the parties were advised of the right to file objections to the Magistrate Judge's Order and Report and Recommendation, and of the consequences of failing to do so, no objections have been filed, and Petitioner has not filed any notice of his intent to proceed solely on his unexhausted claims for relief.

The Order and Report and Recommendation (ECF No. 13) is **ADOPTED** and **AFFIRMED**. Petitioner's motion for a stay (ECF Nos. 6, 7) is **DENIED**. This action is hereby **DISMISSED** without prejudice as unexhausted.

Petitioner has waived his right to appeal by failing to file objections. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Therefore, the Court **DECLINES** to issue a certificate of appealability.

**IT IS SO ORDERED.**

 3-25-2019  
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EDMUND A. SARGUS, JR.  
Chief United States District Judge